



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5
77 WEST JACKSON BOULEVARD
CHICAGO, IL 60604-3590

REPLY TO THE ATTENTION OF

AUG 19 2004

(AE-17J)

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Terri A. Czajka, Esq.
Ice Miller
One American Square
Box 82001
Indianapolis, IN 46282-0002

Re: In the Matter of Beta Steel Corporation (CAA); Fully-Executed CAFO

Dear Ms. Czajka:

Please find enclosed a fully-executed, filed-stamped original Consent Agreement and Final Order (CAFO), CAA Docket No. ~~CAA-95-2004 0037~~ that resolves certain alleged violations of the Clean Air Act by the Beta Steel Corporation (Beta) at its Portage, Indiana facility. As indicated by the filing stamp on the first page of the CAFO, U.S. EPA filed the CAFO with the Regional Hearing Clerk on AUG 19 2004.

Pursuant to paragraph 51 of the CAFO, Beta will pay the civil penalty to U.S. EPA within 30 days of AUG 19 2004. Beta's check must display the case docket number, ~~CAA-95-2004 0037~~, and the billing document number, 052304030.

If you have any questions regarding this CAFO, please contact Associate Regional Counsel, Cynthia N. Kawakami at (312) 886-0564.

Sincerely yours,

Brent Marable, Chief
Air Enforcement and Compliance Assurance Section (IL/IN)
Air Enforcement Branch
Office of Air and Radiation

Enclosure

4/10/1944

4/10/1944

RECEIVED
REGION 4-5
ACTION AGENCY

CAA-05-2004 0037

Docket No.

CONSENT AGREEMENT AND FINAL ORDER

U.S. ENVIRONMENTAL
PROTECTION AGENCY
T AGREEMENT AND

ORDER

1. This is a civil administrative penalty matter that is brought and resolved by U.S. EPA, under the authority vested in the Administrator of U.S. EPA by Section 113(a)(1)(B) of the Clean Air Act, 42 U.S.C. § 7413(a)(1)(B), (the "Act").
2. The Director of the Air and Radiation Division, U.S. EPA, Region 5 has been lawfully delegated authority for this matter under the Act.

100 3000

3. Respondent is the Beta Steel Corporation, an Indiana corporation, doing business in the State of Indiana.
4. Respondent is a "person" as defined at Section 302(e) of the Act, 42 U.S.C. § 7602(e).

III. STATUTORY AND REGULATORY REQUIREMENTS

5. Section 108(a) of the Act, 42 U.S.C. § 7408(a), requires the Administrator of U.S. EPA to promulgate a list of each air pollutant that has emissions which may reasonably be anticipated to endanger public health and welfare and the presence of which results from numerous or diverse mobile or stationary sources; and to issue air quality criteria for each such pollutant (criteria pollutants).
6. Pursuant to Section 108(a) of the Act, U.S. EPA has identified nitrogen oxide (NO_x), sulfur dioxide (SO₂), and ozone as criteria pollutants. 40 C.F.R. §§ 50.4 - 50.11.
7. Section 109 of the Act, 42 U.S.C. § 7409, requires the Administrator of U.S. EPA to promulgate regulations establishing primary and secondary national ambient air quality standards (NAAQS) for all criteria pollutants. The primary NAAQS are to be adequate to protect the public health, and the secondary NAAQS are to be adequate to protect the public welfare, from any known or anticipated adverse effects associated with the presence of the air pollutant in the ambient air.
8. Pursuant to Section 109 of the Act, 42 U.S.C. § 7409, the Administrator of U.S. EPA has promulgated NAAQS for NO_x, SO₂, and ozone. 40 C.F.R. §§ 50.4 - 50.11. Volatile organic compounds (VOCs) are precursors to ozone.
9. Section 107(d) of the Clean Air Act, 42 U.S.C. § 7407(d), requires each state to designate those areas within its boundaries in which the air quality is better than the

NAAQS, worse than the NAAQS, and/or unclassifiable due to insufficient data. An area that meets the NAAQS for a particular pollutant is an "attainment" area. An area that does not meet the NAAQS is known as a "non-attainment" area. An area that cannot be classified due to insufficient data is "unclassifiable."

10. At all times relevant to this CAFO, Beta Steel was located in an area that had been classified as attainment for NO_x and SO₂, and non-attainment for ozone.
11. Section 110 of the Act, 42 U.S.C. § 7410, requires each state to develop, adopt, and submit to U.S. EPA for approval, a state implementation plan (SIP) for the implementation, maintenance, and enforcement of the NAAQS in each air quality control region within such state.
12. Under Section 110(a)(2) of the Act, 42 U.S.C. § 7410(a)(2), each SIP must include a permit program to regulate the modification, construction and operation of any stationary source of air pollution, including stationary sources in attainment and non-attainment areas of the state. Pursuant to Section 113(a) and (b) of the Act, 42 U.S.C. § 7413(a) and (b), upon U.S. EPA approval, SIP requirements are federally enforceable.
13. On May 14, 1973, the Administrator of U.S. EPA approved Indiana Air Pollution Control Regulation 19 (APC 19) as part of the federally enforceable SIP for Indiana. 38 Fed. Reg. 12696.
14. APC 19 provides for the issuance of construction and operating permits to ensure that the NAAQS will be attained and maintained.
15. APC 19 was replaced by 326 IAC § 2-1 which was approved by U.S. EPA on October 7, 1994. 59 Fed. Reg. 51108.

16. Pursuant to 40 C.F.R. § 52.23, failure to comply with a construction permit issued pursuant to APC 19 or 326 IAC § 2-1 is a violation of the Indiana SIP and subjects the violator to an enforcement action under Section 113 of the Act, 42 U.S.C. § 7413.
17. Section 113(a)(1) of the Act, 42 U.S.C. § 7413(a)(1), provides that:

whenever, on the basis of any information available to the Administrator, the Administrator finds that any person has violated or is in violation of any requirement or prohibition of an applicable implementation plan or permit, the Administrator shall notify the person and the State in which the plan applies of such finding. At any time after the expiration of 30 days following the date on which such notice of a violation is issued, the Administrator may . . . (B) issue an administrative penalty order in accordance with subsection (d) of this section. . .
18. Section 113(b)(1) of the Act, 42 U.S.C. § 7413(b)(1), authorizes the Administrator to initiate a judicial enforcement action for a permanent or temporary injunction, and/or for a civil penalty of up to \$25,000 per day of violation, up to a total of \$200,000, against any person who has violated a SIP. The Adjustment of Civil Penalties for Inflation regulations set forth at 40 C.F.R. Part 19, implementing the Debt Collection Improvement Act (DCIA) of 1996, 31 U.S.C. § 3701, increased the statutory maximum penalty to \$27,500 per day for each violation up to a total of \$220,000 for violations that occurred on or after January 31, 1997.
19. Section 113(d)(1) limits the Administrator's authority to matters where the first alleged date of violation occurred no more than 12 months prior to initiation of the administrative action, except where the Administrator and Attorney General of the United States jointly determine that a matter involving a longer period of violation is appropriate for an administrative penalty action.

20. The Administrator and the Attorney General of the United States, each through their respective delegates, have determined jointly that an administrative penalty action is appropriate for the period of violations alleged in this complaint. Beta Steel denies liability for an administrative penalty, but stipulates to the entry of this Order in order to avoid the expense and uncertainty of litigation.

IV. GENERAL ALLEGATIONS

21. Respondent owns and operates a steel manufacturing plant, located at 6600 South Boundary Road, Portage, Indiana 46368 (Portage facility).
22. Respondent has a melt shop at the Portage facility that contains an Electric Arc Furnace that is used in its steel manufacturing process.
23. Respondent has a Reheat Furnace that is used in its steel manufacturing process.
24. On February 24, 1992, the Indiana Department of Environmental Management issued a construction permit to Beta Steel, relating to the steel production operations at the Portage facility, and setting emission limits for NO_x, SO₂, and VOCs from the baghouse Meltshop, and emission limits for NO_x from the Reheat Furnace.
25. In January 1998, emissions testing revealed that Beta Steel had exceeded the emissions limitations set forth in the construction permit for NO_x, SO₂, and VOCs at the Meltshop and for NO_x at the Reheat Furnace at the Portage facility. Subsequent testing in May and June 1998 indicated that Beta Steel continued to exceed construction permit emission limitations.
26. On June 30, 1998, U.S. EPA issued a Notice of Violation (NOV) to Beta Steel indicating that Beta Steel had violated the Indiana SIP and the Act by emitting NO_x, SO₂, and

VOCs at the Meltshop and NO_x at the Reheat Furnace, in excess of the emissions limitations set forth in its construction permit.

27. On or around April 2, 1998, Beta Steel submitted a request for a permit amendment from the Indiana Department of Environmental Management. Beta Steel's request sought, among other things, revision of the construction permit's NO_x, SO₂ and VOC emission limits at the Meltshop, and NO_x emission limits at the Reheat Furnace.
28. On May 30, 2003, the Indiana Department of Environmental Management granted Beta Steel a Significant Amendment to Construction Permit 127-2326 that included, among other things, increased limits for NO_x, SO₂ and VOCs at the Meltshop, and NO_x at the Reheat Furnace.

COUNT I

29. The general allegations set forth in paragraphs 21 through 28 are realleged and incorporated herein by reference.
30. Beta Steel's February 24, 1992, Construction Permit, Operation Condition 1g, limited the total SO₂ emissions from Beta Steel's Meltshop baghouse stack to 0.047 pounds per ton of steel produced, and 5.9 pounds per hour.
31. SO₂ emissions from Beta Steel's Meltshop baghouse stack exceeded 0.047 pounds per ton of steel produced, and 5.9 pounds per hour.
32. Beta Steel's failure to comply with the SO₂ limits set forth in its February 24, 1992, Construction Permit constitutes a violation of the Indiana SIP.

COUNT II

33. The general allegations set forth in paragraphs 21 through 28 are realleged and incorporated herein by reference.
34. Beta Steel's February 24, 1992, Construction Permit, Operation Condition 1j, limited the total NO_x emissions from all of Beta Steel's Meltshop operations to 22.2 pounds per hour through the baghouse stack.
35. NO_x emissions from Beta Steel's Meltshop baghouse stack exceeded 22.2 pounds per hour.
36. Beta Steel's failure to comply with the NO_x limits set forth in its February 24, 1992, Construction Permit constituted a violation of the Indiana SIP.

COUNT III

37. The general allegations set forth in paragraphs 21 through 28 are realleged and incorporated herein by reference.
38. Beta Steel's February 24, 1992, Construction Permit, Operation Condition 1i, limited VOC emissions at Beta Steel's Meltshop baghouse stack to 0.13 pounds per ton of steel produced, and 16.8 pounds per hour.
39. VOC emissions from Beta Steel's Meltshop baghouse stack exceeded 0.13 pounds per ton of steel produced, and 16.8 pounds per hour
40. Beta Steel's failure to comply with the VOC limits set forth in its February 24, 1992, Construction Permit constitutes a violation of the Indiana SIP.

COUNT IV

41. The general allegations set forth in paragraphs 21 through 28 are realleged and incorporated herein by reference.
42. Beta Steel's February 24, 1992, Construction Permit, Operation Condition 7e, limited the total NO_x emissions from Beta Steel's Reheat Furnace to 14.7 pounds per million standard cubic feet (lb/MMscf) or 0.014 pounds per million British thermal units of heat input (lb/MMBtu) of natural gas burned, and 33.13 pounds per hour or 13.7 tons per year.
43. NO_x emissions from Beta Steel's Reheat Furnace exceeded 14.7 lb/MMscf (or 0.014 lb/MMBtu) of natural gas burned, and 33.13 pounds per hour.
44. Beta Steel's failure to comply with the NO_x limits for emissions from the Reheat Furnace, set forth in its February 24, 1992, Construction Permit, constitutes a violation of the Indiana SIP.

V. TERMS OF SETTLEMENT**A. Stipulations**

45. To avoid protracted litigation, and for the purposes of this proceeding only, Beta Steel stipulates to the jurisdictional allegations in this Consent Agreement and Final Order (CAFO) and neither admits nor denies the allegations in paragraphs 21 through 44 of this CAFO.
46. Beta Steel waives its right to contest the allegations in this CAFO, and waives its right to appeal under Section 113(d) of the Act, 42 U.S.C. § 7413(d), and 40 C.F.R. § 22.18.

47. Beta Steel certifies that, on May 30, 2003, it received A-127-9642, Significant Amendment to Construction Permit 127-2326, Plant ID: 127-00036 (permit modification) from the Indiana Department of Environmental Management, and that the permit modification provides Beta Steel with increased emission limits for NO_x, SO₂ and VOCs from the Meltshop and increased emission limits for NO_x from the Reheat Furnace. Under these May 2003 modified permit emission limitations, Beta Steel's emissions of NO_x, SO₂, and VOCs from the Meltshop and NO_x from the Reheat Furnace no longer currently violate the Indiana SIP and the Act.
48. The parties consent to the terms of this CAFO.
49. The parties desire to settle and compromise this action without a hearing or an adjudication of any fact or law. The parties agree that settling this action without further litigation, upon the terms in this CAFO, is in the public interest.

B. Civil Penalty

50. The Administrator of U.S. EPA must consider the factors specified in Section 113(e) of the Act when assessing an administrative penalty under Section 113(d) of the Act, 42 U.S.C. § 7413(e). The Administrator of U.S. EPA has evaluated the facts alleged in this CAFO, the factors specified in Section 113(e) of the Act, and, in particular, Respondent's cooperation with U.S. EPA and willingness to perform two supplemental environmental projects, in determining that assessment of a \$49,159 civil administrative penalty in this matter is a fair and appropriate penalty amount to resolve this matter without litigation.

51. Respondent agrees to pay a \$49,159 civil administrative penalty to U.S. EPA.

Respondent shall pay the \$49,159 civil administrative penalty to U.S. EPA by cashier's or certified check payable to the "Treasurer, United States of America," within 30 days after the effective date of this CAFO. Beta Steel must send the check to:

U.S. Environmental Protection Agency
Region 5
P.O. Box 70753
Chicago, Illinois 60673

Respondent shall accompany the payment with a transmittal letter, stating Respondent's name, complete address, the case docket number, and the billing document number.

Respondent must write the case docket number and the billing document number on the face of the check. Respondent must send copies of the check and transmittal letter to:

Attn: Regional Hearing Clerk, (E-19J)
U.S. Environmental Protection Agency, Region 5
77 West Jackson Blvd.
Chicago, Illinois 60604-3590

Attn: Compliance Tracker, (AE-17J)
Air Enforcement and Compliance Assurance Branch
Air and Radiation Division
U.S. Environmental Protection Agency, Region 5
77 West Jackson Blvd.
Chicago, Illinois 60604-3590

Cynthia N. Kawakami
Associate Regional Counsel
Office of Regional Counsel (C-14J)
U.S. Environmental Protection Agency, Region 5
77 West Jackson Blvd.
Chicago, Illinois 60604-3509

52. This civil penalty (\$49,159) is not deductible for federal tax purposes.

53. If Beta Steel does not pay timely the civil penalty due under paragraph 51, above, and/or any stipulated penalties due under paragraph 69, below, U.S. EPA may bring an action to collect any unpaid portion of the penalties with interest, handling charges, nonpayment penalties and the United States' enforcement expenses for the collection action under Section 113(d)(5) of the Act, 42 U.S.C. § 7413(d)(5). The validity, amount and appropriateness of the civil penalty are not reviewable in a collection action.
54. Interest will accrue on any overdue amount from the date payment was due at a rate established under 31 C.F.R. § 901.9(b). Beta Steel will pay a \$15 handling charge each month that any portion of the penalty is more than 30 days past due. Beta Steel will pay a quarterly nonpayment penalty each quarter during which the assessed penalty is overdue according to Section 113(d)(5) of the Act, 42 U.S.C. § 7413(d)(5). This nonpayment penalty will be 10 percent of the aggregate amount of the outstanding penalties and nonpayment penalties accrued from the beginning of the quarter

C. **Supplemental Environmental Projects**

55. Beta Steel must complete a supplemental environmental project (SEP), designed to reduce pollution through source reduction, by installing, maintaining and operating a feed forward, computer logic system at its Reheat Furnace.
56. As part of this SEP, Beta Steel shall prepare for U.S. EPA's review and approval, a comprehensive inspection, maintenance and repair plan for the feed forward, computer logic system at its Reheat Furnace. At a minimum, this plan shall include a schedule for periodic inspection of the system and details for repair of the system, including a time-frame for repair, in the event that the feed forward computer logic system malfunctions.

Beta shall submit this plan to U.S. EPA for approval within four (4) months of the effective date of this CAFO, and shall make any and all corrections of this plan following review and comment by the Agency. Beta must have an U.S. EPA-approved plan in place within six (6) months of the effective date of this CAFO. If malfunctions of the feed forward computer logic system occur after Beta has implemented corrective measures for the system, Beta shall amend the comprehensive inspection, maintenance and repair plan to include additional preventative measures to address such malfunction.

57. Beta Steel must complete the installation of the computer logic system at its Portage, Indiana facility within ten (10) months of the effective date of this CAFO, and must operate the feed forward computer logic system, following installation, as soon as the Reheat Furnace exhaust temperature reaches the lower value of the optimum temperature range for the emission control equipment. Beta shall use the feed forward computer logic system at all times, except when the system is malfunctioning and/or is undergoing maintenance or repair under the inspection, maintenance and repair plan for the system that has been approved by U.S. EPA. Except as provided for in this paragraph, Beta shall continue to operate the feed forward computer logic system until the time the Reheat Furnace shutdown sequence is initiated with the intention of shutdown of the unit. Beta shall submit the SEP completion report for this SEP, as detailed below in paragraph 64, following installation of the feed forward computer logic system.
58. Beta Steel will spend approximately \$131,557 to install the computer logic, feed forward system at the Reheat Furnace.

59. For so long as Beta Steel (or any successor-in-interest with the same ownership) continues in business as a steel manufacturer as herein above described, Beta Steel must use or operate the feed forward, computer logic system, following installation, as soon as the Reheat Furnace exhaust temperature reaches the lower value of the optimum temperature range for the emission control equipment. Beta shall use the feed forward computer logic system at all times, except when the system is malfunctioning and/or is undergoing maintenance or repair under the inspection, maintenance and repair plan for the system that has been approved by U.S. EPA. Except as provided for in this paragraph, Beta shall continue to operate the feed forward computer logic system until the time the Reheat Furnace shutdown sequence is initiated with the intention of shutdown of the unit.
60. Beta Steel must complete a second SEP, designed to reduce pollution, by conducting a systematic study of the slag cooling and slag quenching processes at the Electric Arc Furnace in its melt shop, as they may impact SO₂ generation and reduction.
61. Beta Steel will spend approximately \$16,436 to conduct the systematic study of the slag cooling and slag quenching processes at the Electric Arc Furnace in its melt shop, as they may impact SO₂ generation and reduction.
62. Beta Steel certifies that it is not required to perform or develop the above-described SEPs by any law, regulation, grant, order, or agreement, or as injunctive relief as of the date it signs this CAFO. Beta Steel further certifies that it has not received, and is not negotiating to receive credit for the SEPs in any other enforcement action.

63. U.S. EPA may inspect the facility at any reasonable time to monitor Beta Steel's compliance with this CAFO's SEPs' requirements, and to the extent otherwise provided by law.
64. Beta Steel must submit a SEP completion report to U.S. EPA within thirty (30) days of the completion of the major SEP, as specified in paragraphs 55 through 59 above. This report must contain the following information:
 - a. a detailed description of each of the two SEPs, as completed;
 - b. a description of any operating problems and the actions taken to correct the problems;
 - c. an itemized summary of the costs of goods and services used to complete each SEP, documented by copies of invoices, purchase orders, or canceled checks that specifically identify and itemize the individual costs of the goods and services;
 - d. with regard to Beta's second SEP, the systematic study of the slag cooling and slag quenching processes at the Electric Arc Furnace in its melt shop, Beta shall provide a detailed description of the findings of its study, including, but not limited to, how the processes at the Electric Arc Furnace impact SO₂ generation and reduction;
 - e. a certification that Beta Steel has completed each SEP in compliance with this CAFO; and
 - f. a description of the environmental and public health benefits resulting from the SEPs ; (quantify the benefits and pollution reductions, if feasible).
65. Beta Steel must submit all notices and reports required by this CAFO, by first class mail to:

Attn: Compliance Tracker (AE-17J)
Air Enforcement and Compliance Assurance Branch
Air and Radiation Division
U.S. Environmental Protection Agency, Region 5
77 West Jackson Blvd.
Chicago, Illinois 60604-3590

66. In each report that Beta Steel submits as provided by this CAFO, it must certify that the report is true and complete by including the following statement signed by one of its officers:

I certify that I am familiar with the information in this document and that, based on my inquiry of those individuals responsible for obtaining the information, the information is true and complete to the best of my knowledge. I know that there are significant penalties for submitting false information, including the possibility of fines and imprisonment for knowing violations.

67. Following receipt of the SEP completion report described in paragraph 64 above, U.S. EPA must notify Beta Steel in writing that:

- a. Beta Steel has satisfactorily completed each SEP and the SEP report; or
- b. There are deficiencies in one or both of the SEPs as completed or in the SEP report and U.S. EPA will give Beta Steel 45 days to correct the deficiencies; or
- c. Beta Steel has not satisfactorily completed one or both of the SEPs or the SEP report, and U.S. EPA will seek stipulated penalties under paragraph 69.

68. If U.S. EPA exercises option b. above, Beta Steel may object in writing to the deficiency notice within 10 days of receiving the notice. The parties will have 30 days from U.S. EPA's receipt of Beta Steel's objection to reach an agreement. If the parties cannot reach an agreement, U.S. EPA will give Beta Steel a written decision on its objection. Beta Steel will comply with any requirements that U.S. EPA imposes in its decision. If Beta Steel does not complete the SEP as required by U.S. EPA's decision, Beta Steel will pay stipulated penalties to the United States under paragraph 69 below.

D. Stipulated Penalties

69. If Beta Steel violates any provision of this CAFO relating to the requirements under the CAFO, Beta Steel must pay stipulated penalties to the United States as follows:
- a. Except as provided in subparagraph b, below, if Beta Steel does not complete one or both of the SEP satisfactorily according to this CAFO, Beta Steel must pay a stipulated penalty of \$50,000.
 - b. If Beta Steel does not complete the SEPs satisfactorily, but U.S. EPA determines that Beta Steel: (i) made good faith and timely efforts to complete the SEPs; and (ii) certified, with supporting documents, that it spent at least 90 percent of the required amount on the SEPs, Beta Steel will not be liable for any stipulated penalty.
 - c. If Beta Steel satisfactorily completes each SEP, but spent less than 90 percent of the required amount on each SEP, Beta Steel must pay a stipulated penalty of \$5,000 for each SEP.
 - d. If Beta Steel fails to submit timely the SEP completion report required by paragraph 64 above, Beta Steel must pay a stipulated penalty of \$100 for each day after the report was due until it submits the report.
70. U.S. EPA's determinations of whether Beta Steel satisfactorily completed each SEP and whether it made good faith, timely efforts to complete each SEP will bind Beta Steel.
71. Beta Steel must pay any stipulated penalties within 15 days of receiving U.S. EPA's written demand for the penalties. Beta Steel will use the method of payment specified in paragraph 51 above, and will pay interest, handling charges, and nonpayment penalties on any overdue amounts.
72. Any public statement that Beta Steel makes referring to the SEPs must include the following language, "Beta Steel undertook these projects pursuant to a settlement under the Clean Air Act, 42 U.S.C. §7413 and 40 C.F.R. Part 22, with the United States Environmental Protection Agency."

E. Force Majeure

73. If an event occurs which causes or may cause a delay in completing the SEPs as required by this CAFO:
- a. Beta Steel must notify U.S. EPA in writing within 10 days after learning of an event which caused or may cause a delay in completing the SEPs. The notice must describe the anticipated length of the delay, its cause(s), Beta Steel's past and proposed actions to prevent or minimize the delay, and a schedule to carry out those actions. Beta Steel must take all reasonable actions to avoid or minimize any delay. If Beta Steel fails to notify U.S. EPA according to this paragraph, Beta Steel will not receive an extension of time to complete the SEPs.
 - b. If the parties agree that circumstances beyond the control of Beta Steel caused or may cause a delay in completing the SEPs, the parties will stipulate to an extension of time no longer than the period of delay.
 - c. If U.S. EPA does not agree that circumstances beyond the control of Beta Steel caused or may cause a delay in completing the SEPs, U.S. EPA will notify Beta Steel in writing of its decision and any delays in completing the SEP will not be excused.
 - d. Beta Steel has the burden of proving that circumstances beyond its control caused or may cause a delay in completing the SEPs. Increased costs for completing the SEP will not be a basis for an extension of time under subparagraph b, above. Delay in achieving an interim step will not necessarily justify or excuse delay in achieving subsequent steps.

VI. GENERAL PROVISIONS

74. This CAFO settles U.S. EPA's claims for civil penalties for the violations alleged above. Full payment of the penalty identified in paragraph 51 shall resolve Respondent's liability for the violations described in this CAFO. 40 C.F.R. § 22.18(c).
75. Nothing in this CAFO restricts U.S. EPA's authority to seek Respondent's compliance with the Act and other applicable laws and regulations.
76. This CAFO does not affect Respondent's responsibility to comply with the Act and other applicable federal, state and local laws, and regulations.

77. This CAFO constitutes an “enforcement response” as that term is used in “U.S. EPA’s Clean Air Act Stationary Source Civil Penalty Policy” to determine Beta Steel’s “full compliance history” under Section 113(e) of the Act, 42 U.S.C. § 7413(e).
78. The terms of this CAFO bind Beta Steel and its agents, successors, authorized representatives and assigns.
79. Each person signing this consent agreement certifies that he or she has the authority to sign this consent agreement for the party whom he or she represents and to bind that party to its terms.
80. Each party agrees to bear its own costs and fees in this action.
81. This CAFO constitutes the entire agreement between the parties.
82. This CAFO is effective on the date of signature by the director of the Air and Radiation Division. This Order will expire one year from the effective date, if Beta Steel has complied with all of its terms.

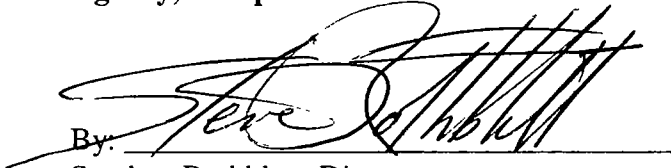
CONSENT AGREEMENT AND FINAL ORDER

In the Matter of Beta Steel Corporation

Docket No. CAA-05- 2004 0037


**U.S. Environmental Protection
Agency, Complainant**

Date: 8/11/2004

By: 
Stephen Rothblatt, Director
Air and Radiation Division
U.S. Environmental Protection
Agency, Region 5 (A-18J)

Beta Steel Corporation, Respondent

Date: 7-26-04

By: 
Beta Steel Corporation

700 201 201

CONSENT AGREEMENT AND FINAL ORDER

In the Matter of Beta Steel Corporation

Docket No.

CAA-05-2004-0037

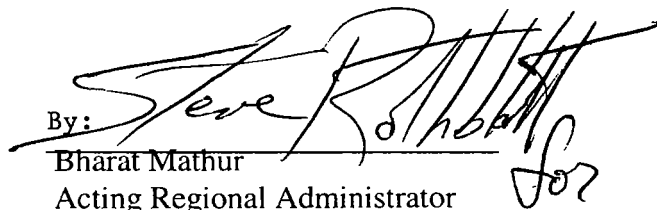
Final Order

It is ordered as agreed to by the parties and as stated in the consent agreement, effective immediately upon filing of this CAFO with the Regional Hearing Clerk.

Date:

8/12/2004

By:



Bharat Mathur

Acting Regional Administrator

U.S. Environmental Protection

Agency, Region 5

77 West Jackson Boulevard

Chicago, Illinois 60604-3590

CAA-05-2004-0037

In the Matter of Beta Steel Corporation
Docket No:

~~CA-05~~ 2004 0037

CERTIFICATE OF FILING AND MAILING

I, Betty Williams, do hereby certify that the original of the foregoing Consent Agreement and Final Order (CAFO), was sent to Beta Steel Corporation was filed with the Regional Hearing Clerk, Region 5, United States Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604; and that a second original of the CAFO was sent Certified Mail, Return Receipt Requested, to:

Kenneth Burns
Maintenance Manager
Beta Steel Corporation
6500 South Boundary Road
Portage, Indiana 46368

I also certify that copies of the CAFO were sent by First Class Mail to:

David McIver, Chief
Office of Enforcement, Air Section
Indiana Department of Environmental Management
100 North Senate Avenue, Room 1001
Indianapolis, Indiana 46206-6015

US ENVIRONMENTAL
PROTECTION AGENCY
REGION 5

04 AUG 19 11:23

RECEIVED
REGIONAL HEARING
CLERK

on the 19th Day of August 2004.

Shanee Rucker for
Betty Williams, Secretary
AECAS (IL/IN)

CERTIFIED MAIL RECEIPT NUMBER: 70010320 000602952546

1000